

United States Court of Appeals For the First Circuit

No. 17-1024

JUSTIN H. NULAND,

Plaintiff, Appellant,

v.

SOUTH SHORE HOSPITAL, INC.; SOUTH SHORE MENTAL HEALTH CENTER, INC.;
MEDICAL RECORD ASSOCIATES, LLC; JASON TRACY, MD; WAYNE A. CHIN, MD;
KENNETH MCLAUGHLIN, MD; JUSTIN BRIONES, MD; JOHN WALSH, MD; JEFFREY
JOHNSON, MD; LINDA WORCESTER, MD; JULIE MITTERANDO, MD; GLORIA
HOLYOKE, RN; KYLE MCALPINE, RN; CHERYL SMITH, RN; COURTNEY BARBETTO,
RN; FIONA BITTEKER, RN; SHEILA MCBRIDE, RN; JILLIAN MCCARTHY, RN; SARAH
C. RALSTON, RN; JUDITH A. RICHARDS, RN; MELISSA E. CONSTANTINO, RN;
CATHLEEN PIERCE, RN; DIANE LOGAN, RN; STACY LUCIER, RN; PAUL ZABORSKI,
RN; SHARON L. STEMM, RN; JENNIFER POWEEL, RN; DIANNE BRYAN, RN,

Defendants, Appellees.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

JUDGMENT

Entered: March 6, 2018

Plaintiff appeals from the district court's dismissal of his diversity case following an adverse decision by a medical malpractice tribunal. After careful review, we affirm. Plaintiff's claims for medical malpractice and negligence, assault and battery, false imprisonment, and negligent infliction of emotional distress were properly referred to the tribunal, see Vasa v. Compass Med., P.C., 921 N.E.2d 963, 965-66 (Mass. 2010), and the claims were properly dismissed after plaintiff failed to post a bond within thirty days as required by Mass. Gen. Laws c. 231, § 60B, see Feinstein v. Massachusetts Gen. Hosp., 643 F.2d 880, 883 (1st Cir. 1981). Even if we assume, without deciding, that we may review the tribunal's determination that the evidence before it was insufficient to raise a legitimate question of liability, we agree with the tribunal's determination. We also note that the claimed violations of the involuntary admission and commitment provisions for mental health facilities under Mass. Gen. Laws c. 123 and 104 CMR

27.00 et seq. are not applicable to the defendants in this case. With respect to plaintiff's separate claim for violation of his right to privacy, any challenge to the dismissal of this claim has been waived for lack of sufficient development in plaintiff's brief. See United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990).

The judgment of the district court is affirmed. See 1st Cir. R. 27.0(c).

By the Court:

/s/ Margaret Carter, Clerk

cc:

Justin H. Nuland
Kurt M. Schmidt Jr.
Andrew F. Newton
Peter Christian Kober
Susan Donnelly Murphy
Edward T. Hinchey
Robert Joseph Murphy
Lisa Oliver White
Kevin G. Kenneally
Janet R. Barringer
Jeanine E. Goodwin